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TAGS: [IS](#) [KDEM](#) [LE](#) [PGOV](#) [PREL](#) [SY](#)  
SUBJECT: MGLE01: HARIRI ADVISOR STRONGLY CRITICIZES DRAFT  
ELECTORAL LAW

REF: BEIRUT 1902

Classified By: Ambassador Jeffrey Feltman. Reason: Section 1.4 (b).

SUMMARY

1. (C) MP Bahije Tabbarah, a close advisor to former Prime Minister Rafiq Hariri, gave a point-by-point critique of the draft electoral law that left little doubt he would be advising his Future Movement colleagues to oppose the law when it comes up for debate in Parliament. Tabbarah, who is not as close to Sa'ad Hariri as he was to Rafiq, saved his harshest criticism for the qada system (smaller electoral district) proposed in the new legislation, insisting it would severely weaken the Future Movement to the point that it could threaten the pro-reform March 14 alliance. He characterized the draft law as an "intellectual exercise" whose concepts would prove impractical in the real world. Tabbarah's withering critique was at odds with the more accepting stance of PM Siniora (reftel) and, depending on his influence with Sa'ad Hariri, may portend a serious challenge in the upcoming parliamentary debate. Concerning the recently released UNIIIC interim report, former Justice Minister Tabbarah expressed confidence that Commissioner Brammertz' "conservative, low profile" approach offered the best means to produce a solid case able to withstand judicial scrutiny. End summary.

2. (SBU) MP Tabbarah, a senior member of Sa'ad Hariri's Future Movement, met with poloff on June 15 to discuss the newly proposed electoral law. Tabbarah was Justice Minister in the Cabinet of assassinated PM Rafiq Hariri, and had previously served as chief legal advisor to the Hariri-owned Solidere conglomerate. Although Tabbarah's counsel was held in high esteem by the elder Hariri, by his own admission he does not enjoy ready access to the son, Sa'ad. However, Rafiq Hariri's widow, Nazek, herself an influential member of the Hariri circle, still seeks and listens to Tabbarah's advice.

A HARSH CRITIQUE

3. (C) Unlike PM Fouad Siniora, Future Movement MP Tabbarah was in clear opposition to the draft law released last week by the Electoral Law Commission. Although the commission was chaired by his old law firm colleague Fouad Boutros, Tabbarah sarcastically derided the "intellectualism" of the draft statute, saying it was completely impractical and exposed the political naivete of its authors. He also referred to an "ill-advised" sea change in the commission's deliberations when, several weeks ago, its two Maronite members threatened

to quit, and agreed to continue only when the Christian-favored "qada" districting system was accepted for the final draft.

14. (C) Despite his discomfort with the fact that several of the widely accepted proposals in the draft would (in his opinion) require amending Lebanon's Constitution, the brunt of Tabbarah's criticism centered on the qada concept. He asked how the Christian community could expect to elect most of its allocated 64 seats -- out of 128, in accordance with the 1989 Ta'if Agreement -- only from districts that held a Christian majority of voters. Considering that the Christian community comprised only about 35-38 percent of the electorate, Tabbarah said the qada system would drive the Muslim community away from its demographically justified dominance. He said that in his opinion, the concept would never be accepted.

15. (C) Apart from his criticism of the inherent unfairness of the mixed qada/muhafaza system, Tabbarah argued that the entire voting proposal was simply too complex. He rhetorically asked what agency was going to supervise the operation, tabulation, and verification of the voting process proposed in the new law. He noted that each citizen would have to vote on two separate ballots -- with an individual option to alter the priority of the proportional lists of candidates. Tabbarah said Lebanon had no experience in organizing and running such an advanced process. He predicted an endless series of legal challenges to the electoral results. He argued that Lebanon, as a nation just beginning to believe in credible elections, required a far simpler and more easily understood system.

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16. (C) Tabbarah next criticized the law's provision to decrease the voting age to 18 and increase representation of women on the lists of candidates. Although he acknowledged both measures enjoyed broad theoretical support, both would require Constitutional amendments. Speaking from his experience as Justice Minister, he stated that he believed that now was not the time to be opening the Constitution to changes. Without referring to specifics, Tabbarah said that in the current fractured political landscape, some politicians might take advantage of the opportunity to introduce amendments that would destabilize the situation. He said he would recommend instead an electoral law that could be implemented without resorting to constitutional changes.

17. (C) Tabbarah next addressed the proposals concerning expatriate voting, media regulations during elections, and campaign finance. Although he endorsed the concept of emigrant voting, he once again remarked that it was an "intellectual nicety" that would be exceptionally difficult to execute and monitor for fairness, due to the complexity of the Lebanese diaspora. Concerning media rules and finance reform, Tabbarah asked which agency had the expertise and resources to regulate and ensure that the new rules were followed in the "wide open" Lebanese electoral system. He predicted the resulting electoral disputes would overwhelm an already burdened judicial system.

18. (C) Lastly, Tabbarah posed the question: what was the real objective of the new law and why wasn't it stated in the draft text? He acknowledged that the confessional guarantees of the Ta'if Agreement were both stabilizing and restrictive, but if the country wanted to create a new political order, not based on confessional quotas, that question should be debated openly. He believes the draft law is useful in that it raises the issue of whether Lebanon would be better served through a pluralistic system, but if that was the intent of the Electoral Law Commission, he believed the question should

be debated openly before it is institutionalized by statute.

#### POSITIVE VIEW OF BRAMMERTZ' METHODOLOGY

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¶9. (C) Turning to the recently released UNIIIC report, MP Tabbarah said that as a lawyer, he was very impressed by the slow, steady pressure Commissioner Brammertz is exerting on "powerful interests." He said that in his opinion, the Commissioner clearly knows how to deal with Syrian regime figures, whom he feels are "perplexed and increasingly anxious" over what the Brammertz investigation is uncovering.

¶10. (C) He expressed his view that the report was a model of judicial tact -- offering few indications of what evidence or lines of inquiry the commission is pursuing. Additionally, he said the gradual acquisition of access to key figures was placing the Syrian regime in a position where to backtrack in its cooperation would likely bring swift and serious action from the Security Council.

¶11. (C) Tabbarah was heartened to learn that Commissioner Brammertz and the commission will apparently be extended a further 12 months. In his view, this would give Brammertz the time needs to "unravel a very tight knot" and produce a case strong enough to withstand the scrutiny of an international tribunal.

#### COMMENT

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¶12. (C) According to some political observers, Tabbarah still holds aspirations to be Prime Minister, despite his evident fall in prominence in the Hariri-dominated movement. This could explain some of the considerable divergence from PM Siniora on the issue of the electoral law. While Siniora sees much to commend in the draft law, not the least being that it frees Lebanon from the deeply flawed, Syrian-engineered electoral law of 2000, Tabbarah views the draft almost as a non-starter. It will be interesting to see which wing of the movement prevails in the upcoming parliamentary debate, and to see if other critics of the law, especially Michel Aoun, take advantage of the apparent split among Future Movement politicians and pile on with criticism.

End comment.

FELTMAN